

Meeting of the Central Valley Flood Protection Board
June 20, 2008

Central Valley Flood Protection Board Staff Report
PL 84-99 Levee Rehabilitation Project –
Reclamation District 2098 and Reclamation District 536

Board Action

Consider adoption of Resolution 08-13 in which the Central Valley Flood Protection Board, acting in its capacity as CEQA lead agency, adopts the Mitigated Negative Declarations, Findings, and Mitigation Measures for PL 84-99 Levee Rehabilitation Projects in Reclamation District 2098 and in Reclamation District 536.

Location

The project in Reclamation District 2098 is located in eastern Solano County approximately 7 miles north of Rio Vista, near the confluence of Cache Slough and Shag Slough/Yolo Bypass. Individual project sites extend along Shag Slough from Shag Slough River Mile (RM) 1.2 to RM 3.2. On Cache Slough, the project consists of intermittent project sites from Cache Slough River Mile 22.3 to RM 23.9. This corresponds to Hass Slough River Mile 0.8 to RM 1.2.

The project in Reclamation District 536 encompasses a 4-mile section on the right bank of Lindsey Slough, from River Mile 20.70 to 24.30. The site is in the Delta region of Solano County, approximately 21 miles southwest of Sacramento.

Description

The Central Valley Flood Protection Board of the State of California, the lead agency under the California Environmental Quality Act and the nonfederal sponsor, cooperated with the U.S. Army Corps of Engineers, the federal sponsor, to prepare a joint Environmental Assessment/Initial Study for the federal Public Law 84-99 Rehabilitation Assistance Program for damage to levees in Reclamation District 2098 and Reclamation District 536, located in Solano County. The district levees were damaged in floods that occurred in 2006 and 2005. Federal funds were not made available until late spring of 2007. Planning efforts, limited construction windows due to endangered species requirements and land-and right-of-way issues have pushed construction into 2008. Construction will be funded 100% by the Corps and undertaken by Corps contractors.

Construction will begin in August 2008 and take approximately 2-3 months. The project will impact approximately 6,384 linear feet of levee slope in RD 2098 and 1,015 linear feet of levee slope in RD 536.

To repair and rehabilitate the levees in Reclamation District 2098, soil will be excavated to a depth of 2.5 feet below the projected levee surface, and 6 inches beyond the damaged area. The levee slope will be restored to the original design with compacted fill and rock riprap. Rock riprap will be placed on a 6-inch bedding layer at elevations consistent with the adjacent existing riprap. The levees will be reseeded with native grasses. Willow pole cuttings and tules will be installed along the levee at, or below, the water surface.

In Reclamation District 536, the land side repair alternative for Sites 004 and 005 will be excavation of the existing slope to a depth of 6 feet and backfilling with clean material. This will add 14 feet to the current levee crown elevation. The existing agricultural ditch will be moved 20 feet to accommodate the new levee toe, and will be reconstructed to the existing configuration.

The waterside repair alternative for Sites 006-016 in Reclamation District 536 will consist of variations on one basic design. All areas will be excavated to a depth of 3 feet below the existing ground surface. Eighteen inch minus rock will be pushed into place from the levee crown. Four inch minus rock will be broadcast on top to fill in interstitial voids. Orange fencing will be placed in the water 1 foot away from the levee toe to protect existing emergent vegetation. All emergent vegetation located on the land side of the fence will be removed by hand and placed on the other side of the fencing. After construction, emergent vegetation will be planted where it was removed. All trees that provide Shaded Riverine Aquatic habitat (SRA) will be protected in place.

Background

The Board is the local sponsor for the federal Public Law 84-99 Rehabilitation Assistance Program that is administered by the Corps of Engineers (Corps). Following damage from high water events during December and January of 2006 and again in April of 2006, impacting federally-authorized flood control projects in the Sacramento and San Joaquin flood control basins, a federal disaster declaration made Solano County eligible for the PL 84-99 levee rehabilitation program. The Corps Sacramento District issued a public notice for rehabilitation assistance dated February 2, 2006. The Board, as the public sponsor for the PL 84-99 program, forwarded the request for PL 84-99 assistance from RD 2098 and RD 536 to the Corps for evaluation of eligibility of submitted levee damage reports in a letters dated 21 March 2006 and 03 April 2006.

RD 536 originally requested assistance for sixteen erosion sites. Four of the original repair sites have been dropped from the project, leaving a total of twelve

sites for construction in 2008. The Corps approved the repair sites for a total project cost of \$4,798,000.

The RD 2098 requested assistance for 22 sites. These sites include sixteen of the more extensively damaged Order 2 sites, and six Order 3,4 or 5 sites that require rehabilitation to prevent additional destabilization of the levee slope and potential loss of the levee. Total project cost for RD 2098 is estimated at \$12,298,996.

The Board will enter into a Cooperation Agreement with the Corps prior to the initiation of construction at RD 2098 and RD 536. Pursuant to this Agreement the Board will:

- a. Provide all lands, easements, and rights-of-way, including suitable borrow and excavated material disposal areas, and perform all relocations determined by the Government to be necessary for construction, operation and maintenance of the project.
- b. Hold and save the Government free from all damages arising from the construction, operation, and maintenance of the project and any project-related betterments, except for damages due to the fault or negligence of the Government or the Government contractors.

Land use in the area is primarily agricultural. However, homes and industries are also protected by levees in these districts and urban land uses are encroaching from the south.

Staff Recommendation

Staff recommends that the CEQA documents be approved and adopted and that the Executive Officer be given the delegated authority to approve the acquisition of necessary property interests to complete the Project.

Attachments

- Exhibit A – Location Map RD 2098
- Exhibit B – Location Map RD 536
- Exhibit C – EA/IS FONSI MND RD 2098
- Exhibit D - EA/IS FONSI MND RD 536

Exhibit A. Location Map RD 2098

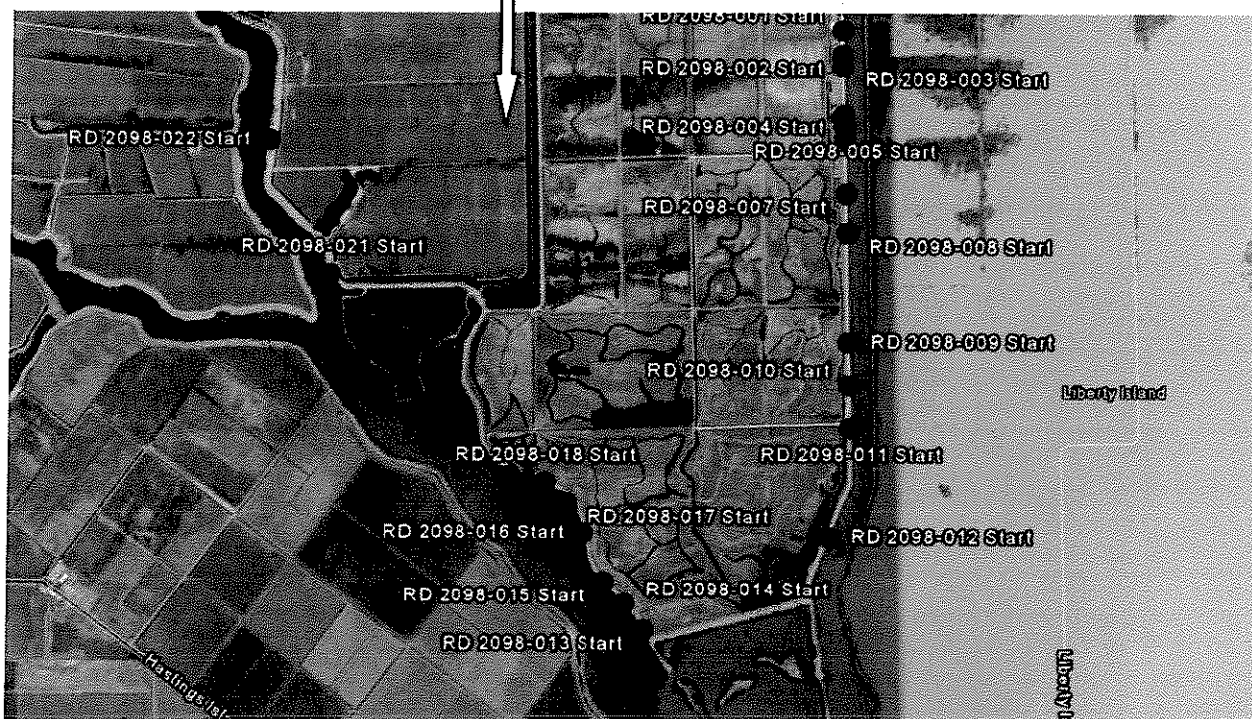
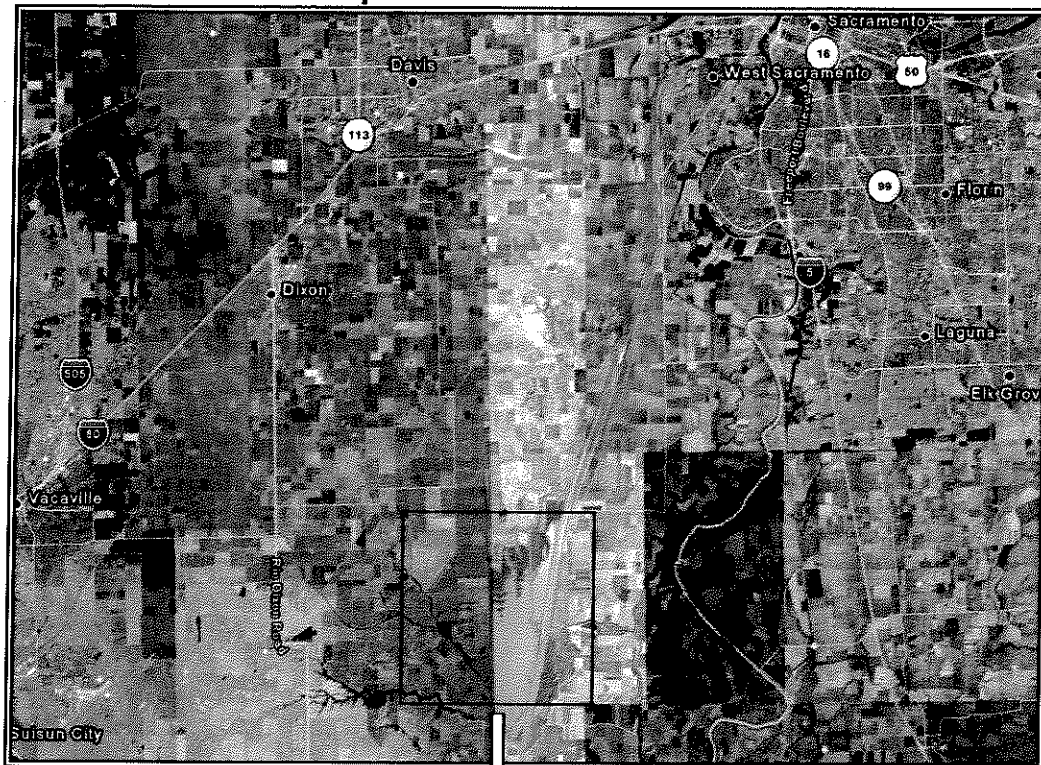
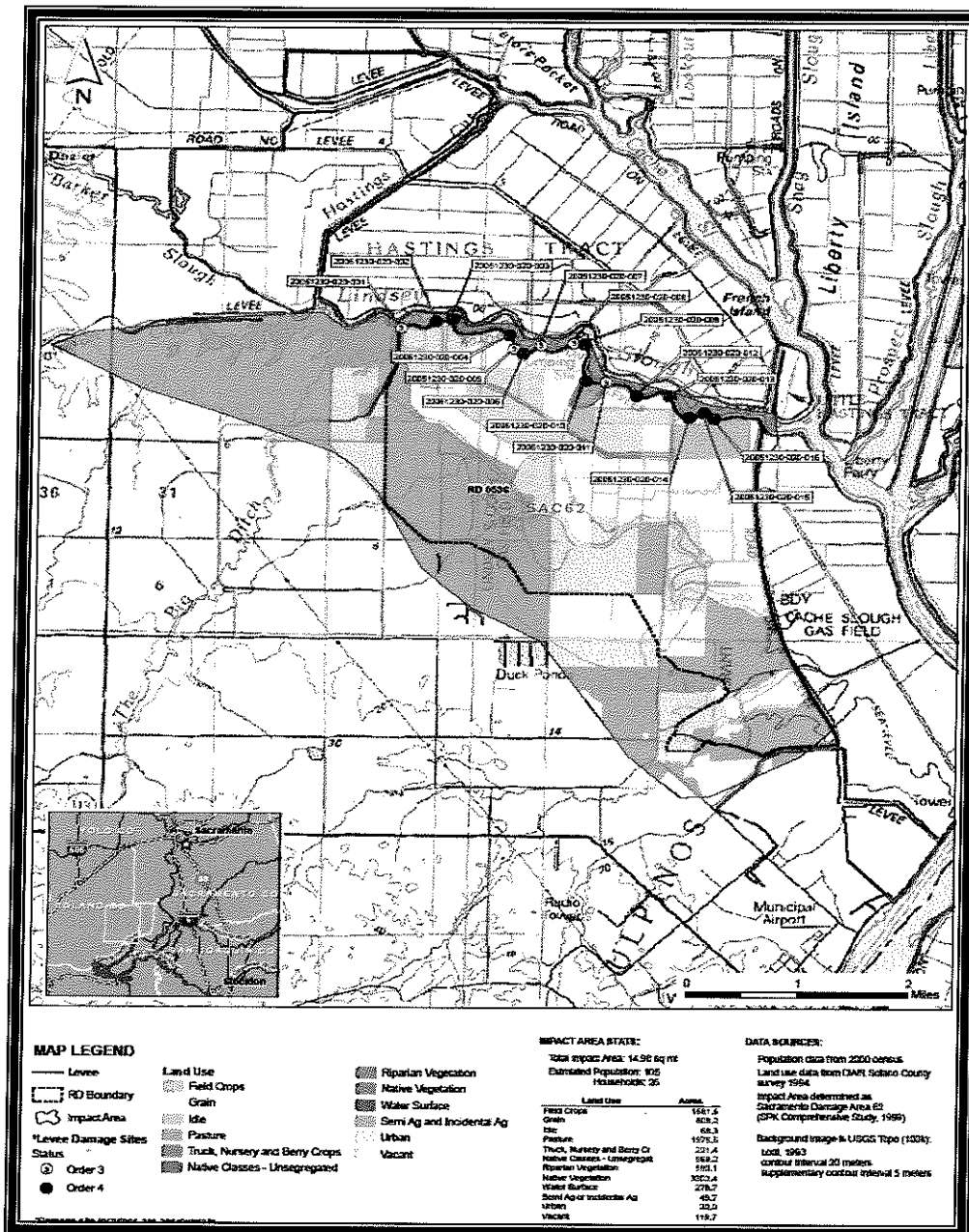


Exhibit B – Location Map RD 536



State of California
The Resource Agency
Central Valley Flood Protection Board Staff Report
Resolution No. 08-13

PL 84-99 Levee Rehabilitation Project,
Reclamation District 2098 and Reclamation District 536

WHEREAS, between 28 December 2005 and 9 January 2006, and again in April 2006, the State of California experienced a series of severe storms with many rivers running above flood stage that damaged levees within the Corps' Sacramento District's boundaries in the Sacramento and San Joaquin River Basins, and resulted in significant erosion and seepage problems along many of these levees; and

WHEREAS, high flow in Lindsay Slough, Cache Slough, Haas Slough and Shag Slough/Yolo Bypass in December 2005 and January 2006 saturated the waterside levee slope and destabilized sections of the levees within Reclamation District (RD) 2098 and Reclamation District 536, causing extensive damage and erosion of the levee embankment and loss of existing riprap at 22 sites in RD 2098 and 12 sites in RD 536 which was documented during a reconnaissance visit by the Corps and State in 2006; and

WHEREAS, under the authority of the federal Public Law (PL) 84-99 the U.S. Army Corps of Engineers (Corps), the State and the local maintaining agencies are working cooperating to restore the flood-damaged levee systems to pre-storm conditions; and

WHEREAS, the Central Valley Flood Protection Board (Board) has agreed to serve as the nonfederal sponsor of the Public Law (PL) 84-99 Rehabilitation and Inspection Program in the Cooperative Agreement between the United States of America and the Central Valley Flood Protection Board for Rehabilitation of a Federal Flood Control Work; and

WHEREAS, the Central Valley Flood Protection Board of the State of California, the lead agency under the California Environmental Quality Act and the nonfederal sponsor, is cooperating with the U.S. Army Corps of Engineers, the federal sponsor, to prepare a joint Environmental Assessment/Initial Study (EA/IS) and Mitigated Negative Declaration (MND) for the federal Public Law 84-99 Rehabilitation Assistance Program for damage to levees in Reclamation District 2098 and Reclamation District 536 (Project); and

WHEREAS, the joint EA/IS and draft MNDs for RD 2098 and RD 536 were filed with the State Clearinghouse May 19, 2008, and the Public review period required by the California Environmental Quality Act ended on June 18, 2008, and all comments received have been addressed; and

WHEREAS, the effects of the proposed Projects on vegetation, wildlife and other environmental features are described and appropriate mitigation is recommended within each EA/IS.

NOW, THEREFORE, BE IT RESOLVED that the Central Valley Flood Protection Board acting in its capacity as CEQA lead agency:

1. Adopt Mitigated Negative Declaration, Findings and Mitigation Measures for the PL 84-99 Levee Rehabilitation Project in Reclamation District 536; and
2. Adopt Mitigated Negative Declaration, Findings, and Mitigation Measures for the PL 84-99 Levee Rehabilitation Project in Reclamation District 2098
3. Approve the project.

Dated: _____

THE CENTRAL VALLEY FLOOD PROTECTION BOARD
OF THE STATE OF CALIFORNIA

By _____
Benjamin F. Carter
President

By _____
Maureen Doherty
Secretary

Approved as to Legal form
And Sufficiency

Nancy Finch
Senior Staff Counsel

**Proposed Mitigated Negative Declaration for the
Reclamation District 536 Public Law 84-99 Levee Rehabilitation Project**

LEAD AGENCY: The Central Valley Flood Protection Board (Board) of California is the lead agency under the California Environmental Quality Act for the Reclamation District 536 Levee Rehabilitation Project.

AVAILABILITY OF DOCUMENTS: The initial study and environmental assessment, and proposed negative declaration, are available for review at the Department of Water Resources, Division of Flood Management, 2825 Watt Avenue, Suite 100, Sacramento, California 95825 and on the Central Valley Flood Protection Board website, <http://www.cvfpb.ca.gov>. Questions or comments regarding this proposed mitigated negative declaration and initial study/environmental assessment may be addressed to :

Ms. Deborah Condon, Environmental Program Manager
Department of Water Resources
Division of Flood Management
2825 Watt Avenue, Suite 100,
Sacramento, California 95825
(916) 574-1426
dcondon@water.ca.gov

PROJECT DESCRIPTION

The Board in partnership with the U.S. Army Corps of Engineers (Corps), the federal sponsor, jointly prepared an Environmental Assessment/Initial Study for the proposed levee rehabilitation project under the Corps' Public Law 84-99 Rehabilitation Assistance for damaged levees. Construction will begin in July 2008 and take approximately 3 months.

Repair Alternative for Sites 004 and 005

Sites 004 and 005 will be land site repairs. These repairs will consist of excavating the existing slope 6 feet and backfilled with compacted select fill. This will add 14 feet to the existing levee crown. The existing agricultural ditch will have to be moved 20 feet to accommodate the new levee toe and will be rebuilt to the existing configuration.

Repair Alternative for Sites 006-016

Sites 006-016 will consist of water side repairs. These repairs consist of variations of one basic design. This basic design is as follows. All areas will be cleared and grubbed to a depth of 3 feet below the existing ground surface. After the material has been removed 18 inch minus rock will be placed where needed by pushing into place from the crest. 4 inch minus rock will be broadcast on top to fill in interstitial voids. In addition, orange fencing will be placed in the water 1 foot away from the levee toe to protect in water vegetation located 1 foot or more away from construction. All in water vegetation located on the land side of the orange fencing will be removed by hand and placed on the other side of the fencing. A mix of Tule and Bulrush will be planted to replace the moved in water vegetation. All trees that provide Shaded Riverine habitat (SRA) will be protected in place. A corps biologist will mark all trees to be saved prior to construction.

The Central Valley Flood Protection Board directed the preparation of an initial study/mitigated negative declaration (IS/MND) on this proposed project in accordance with requirements of the California Environmental Quality Act (CEQA). The document describes the proposed project and potential environmental impacts, and concludes that any significant effects that may result from the proposed project can be avoided, minimized or reduced to a less-than-significant level by the adoption and implementation of mitigation measures.

PROJECT LOCATION

The project is located along a 4-mile section on the right bank of Lindsey Slough, from River Mile 20.70 to 24.30 in Reclamation District 536. The site is in the Delta region of Solano County, approximately 21 miles southeast of Sacramento. Project site locations are depicted a map located in the attached Environmental Assessment/Initial Study.

FINDINGS: An initial study was prepared to assess the proposed project's potential effects on the environment and the significance of the impacts. Based on the initial study, the Central Valley Flood Protection Board has determined that the proposed project will not have a significant impact on the environment following the implementation of the mitigation measures. This conclusion is supported by the following findings:

- The project will not result in impacts to agricultural resources, geology, mineral resources, soils, land use and planning, and population and housing.
- The project will result in less than significant impacts to hydrology, aesthetics, public utilities and service systems, greenhouse gas emissions, and recreation.
- Mitigation measures undertaken as part of the proposed project will reduce impacts to a less than significant level for biological resources, including Central Valley steelhead (*Oncorhynchus mykiss*), Central Valley spring-run chinook salmon and winter-run salmon (*Oncorhynchus tshawytscha*), green sturgeon (*Acipenser medirostris*), Delta smelt (*Hypomesus transpacificus*), Swainson's hawk (*Buteo swainsoni*), burrowing owl (*Athene cunicularia*), giant garter snake (*Thamnophis gigas*), and other nesting migratory and special status bird species, including black phoebe and swallows.
- Mitigation measures undertaken as part of the proposed project will reduce impacts to a less than significant for water quality impacts during and after construction.
- Mitigation would be undertaken as part of the proposed project will reduce potentially significant impact to less-than-significant levels for: Temporary, short term, impacts during construction may result from the proposed project. These are: potential effects to air quality impacts from dust and emissions, and minor increases in traffic from construction vehicles. These short term impacts are not considered significant.

MANDATORY FINDINGS OF SIGNIFICANCE

- No substantial evidence exists that the proposed project would have a negative or adverse effect on the environment.
- The project will not substantially degrade the quality of the environment, significantly reduce the habitat for fish and wildlife species, result in fish or wildlife populations below a self-sustaining level, reduce or restrict the range of a special-status species, or eliminate important examples of California history or prehistory.
- The project would not achieve short-term environmental goals to the detriment of long-term environmental goals.
- The project would not have environmental effects that would cause substantial direct or indirect adverse effects on humans.
- The project would not have environmental effects that are individually limited but cumulatively considerable.

PROPOSED MITIGATION MEASURES

The following mitigation measures will be implemented by the Central Valley Flood Protection Board and the Corps to avoid or minimize potential environmental impacts. Implementation of these mitigation measures would reduce the potential environmental impacts to a less-than-significant level.

Giant Garter Snake

- Provisions in the Fish and Wildlife Service's *Standard Avoidance and Minimization Measures During Construction Activities in Giant Garter Snake (Thamnophis gigas) Habitat* will be implemented.
-

Burrowing Owl, Black Phoebe, Swallows, and Other Special Status and Migratory Birds.

- A qualified biologist will survey the project area and vicinity prior to initiation of construction to determine presence or absence of these species. If the survey determines that a nesting pair of special status, or migratory, bird species are present, the Corps will coordinate with USFWS and/or the California Department of Fish, and required avoidance and minimization measures will be implemented.

Fish

- In-water construction activities will occur during the USFWS and NMFS approved work window for special status fisheries species. The in-water work window for salmonid species is from July 1 to October 30 and may be extended with the approval of agencies. The Delta smelt work window is between July 1 and November 30. Work windows have not been set for green sturgeon.

- A Corps' environmental resources specialist and a certified arborist will be present during trimming or removal of any herbaceous or woody vegetation to ensure that only the allowed vegetation is removed.
- Avoid disturbance of bulrush, instream woody material, and SRA where feasible. Protective fencing will be used to protect bulrush during construction. If bulrush will be disturbed at a repair site, the contractor will remove the vegetation prior to construction and transplant it to suitable locations in and adjacent to the site after construction at that site is completed.
- All emergent vegetation within the water along the waterside levee toe will be protected in place. Disturbance shall only be permitted if directed by a Corps' environmental resources specialist.
- Install willow pole cuttings along the waterline at all repair sites, and plant bulrush below the waterline at appropriate locations.
- Surface voids in the riprap shall be filled by casting 4" minus-clean infill rock onto the newly repaired sites to create a homogenous, semi-smooth surface.

Water Quality and Hazardous Materials

- The contractor will prepare a Storm Water Pollution Prevention Plan and a Hazardous Materials Management Plan, and will implement best management practices to reduce the risk of material entering the water or adversely impact water quality.

Vegetation

- Tree protection measures, such as using burlap and stakes to protect trunks, will be implemented during construction. Black walnut trees will be protected.
- Surveys to determine the presence or absence of rare, threatened or endangered plant species will be conducted prior to construction during the blooming season for annual plants, or when vegetative portions of the plant can be detected for perennial plants. The CNDDDB has records of populations of rose mallow (*Hibiscus lasiocarpus*), Delta tule pea (*Lathyrus jepsonii* var. *jepsonii*), Heckard's pepper-grass (*Lepidium latipes* var. *heckardii*), and Mason's lilaeopsis (*Lilaeopsis masonii*) documenting that these species may be located on or near the project sites. If located, the plants will be protected in place where possible, or transplanted onto the levee.

The project will incorporate all applicable mitigation measures provided above and listed in the Environmental Assessment/Initial Study. A finding of no significance (FONSI) from the Corps will be provided.

APPROVAL OF INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

In accordance with Section 21082.1 of the California Environmental Quality Act, Central Valley Flood Protection Board staff has independently reviewed and analyzed the initial study and proposed mitigated negative declaration for the proposed project and finds that the initial study and proposed mitigated negative declaration reflect the independent judgment of the Central Valley Flood Protection Board staff. The project mitigation measures will be implemented as stated in the mitigated negative declaration.

Benjamin F. Carter

date

President

Central Valley Flood Protection Board of the State of California

Approved as to Legal form and Sufficiency

Nancy Finch
Senior Staff Counsel

Date

**COOPERATION AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
and
THE STATE OF CALIFORNIA
for
REHABILITATION OF A FEDERAL FLOOD CONTROL WORK
FOR ORDER 2, 3, 4 AND 5 SITES - GROUP B**

THIS AGREEMENT, entered into this _____ day of _____, 2008, by and between **THE DEPARTMENT OF THE ARMY** (hereinafter referred to as the "Government") represented by the District Engineer, Sacramento District, U.S. Army Corps of Engineers, and the **STATE OF CALIFORNIA**, (hereinafter referred to as the "Public Sponsor"), acting by and through the Central Valley Flood Protection Board.

WITNESSETH THAT:

WHEREAS, the Government constructed the Sacramento and San Joaquin River Flood Control Project (hereinafter referred to as the project), authorized by the Flood Control Act (FCA) of March 1, 1917, as amended by the FCA of May 15, 1928, the River and Harbor Act of August 26, 1937, the FCA of August 18, 1941, and the FCA of December 22, 1944, and governed by the local assurances as authorized and approved by the State of California;

WHEREAS, pursuant to 33 U.S.C. 701n, the Government is authorized to assist in the repair or restoration of flood control improvements threatened or destroyed by flood;

WHEREAS, via written correspondence, the Public Sponsor has requested the Government to repair or restore the project, which was damaged by recent flooding or coastal storms, in accordance with 33 U.S.C. 701n and established policies of the U.S. Army Corps of Engineers;

WHEREAS, the Government is authorized pursuant to 33 U.S.C. 701h to accept contributed funds, to be expended in connection with Federally appropriated funds, for any authorized flood control work whenever such work and expenditure may be considered by the Secretary of the Army on recommendations of the Chief of Engineers to be advantageous in the public interest;

WHEREAS, the Public Sponsor considers it to be in its own interest to expedite the design and construction of the project by voluntarily contributing funds (hereinafter referred to as "Contributed Funds") to be used by the Government for that purpose; and,

WHEREAS, the Public Sponsor hereby represents that it has the authority and legal capability to furnish the non-Federal cooperation hereinafter set forth and is willing to participate in the rehabilitation effort in accordance with the terms of this Agreement;

NOW, THEREFORE, the Government and the Public Sponsor agree as follows:

ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

For purposes of this agreement:

A. The term "Rehabilitation Effort" shall mean work performed by the Government as described in Exhibit "A," Scope of Work, attached hereto and made a part of the agreement and as generally described in the Project Information Reports (PIR), on file in the Sacramento District Office and approved by the Division Engineer.

B. The term "Rehabilitation Effort costs" shall mean all costs incurred by the Government, in accordance with the terms of this Agreement, directly related to implementation of the

ARTICLE III - LANDS, RELOCATIONS, DISPOSAL AREAS, AND PUBLIC LAW 91-646 COMPLIANCE

A. The Government shall provide the Public Sponsor with a description of the anticipated real estate requirements and relocations for the Rehabilitation Effort. Thereafter, the Public Sponsor shall furnish all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform any relocations, as may be determined by the Government in that description, or in any subsequent description, to be necessary for the construction, operation, and maintenance of the Rehabilitation Effort and the project. The necessary lands, easements, and rights-of-way may be provided incrementally for each construction contract. All lands, easements, and rights-of-way determined by the Government to be necessary for work to be performed under a construction contract must be furnished prior to the solicitation of that construction contract.

B. The Public Sponsor shall comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970, Public Law 91-646, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights of way, required for construction, operation, and maintenance of the Rehabilitation Effort, including those necessary for relocations, borrow materials, and dredged or excavated material disposal, and shall inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

ARTICLE IV - METHOD OF PAYMENT

A. The Public Sponsor shall provide, during the period of the Rehabilitation Effort, Contributed Funds required to meet the Public Sponsor's obligations under Article II of the Agreement. Rehabilitation Effort costs are currently estimated to be **\$23,886,174**. The Public Sponsor must provide Contributed Funds estimated to be **\$0.00**. The dollar amounts set forth in this paragraph are based upon the Government's best estimates that reflect projections of costs, price level changes, and anticipated inflation. Such cost estimates are subject to adjustments based upon costs actually incurred, and are not to be construed as the total financial responsibilities of the Government and the Public Sponsor.

B. During the period of the Rehabilitation Effort, the Government will provide periodic financial reports on the status of the total Rehabilitation Effort costs and status of contributions made by the Public Sponsor. Upon completion of the Rehabilitation Effort and resolution of all relevant contract claims and appeals, the Government shall compute the Rehabilitation Effort costs and tender to the Public Sponsor a final accounting of Rehabilitation Effort costs.

1. Unless directed in law, the Government shall not reimburse the Public Sponsor for Contributed Funds expended by the Government.

2. The Government, subject to the availability of funds and subject to the approval by the Secretary of the Army, shall return to the Public Sponsor Contributed Funds not expended by the Government.

C. Nothing in this agreement shall constitute, or be deemed to constitute, an obligation of future appropriations by the United States.

ARTICLE V - OPERATION AND MAINTENANCE

A. After the Government has determined that construction of the Rehabilitation Effort is complete and provided the Public Sponsor with written notice of such determination, the Public

of future performance under this Agreement shall not affect existing obligations or relieve the parties of liability for any obligation previously incurred. In the event that either party elects to terminate this Agreement pursuant to this Article or Article XI.C. of this Agreement, both parties shall conclude their activities relating to the Rehabilitation Effort and proceed to a final accounting in accordance with Article IV of this Agreement. In the event that either party elects to defer future performance under this Agreement pursuant to this Article, such deferral shall remain in effect until such time as either the Government or Public Sponsor elects to proceed with further construction or terminates this Agreement.

ARTICLE XI - HAZARDOUS SUBSTANCES

A. After execution of this Agreement and upon direction by the District Engineer, the Public Sponsor shall perform, or cause to be performed, such investigations for hazardous substances as are determined necessary by the Government or the Public Sponsor to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 42 U.S.C. Sections, 9601-9675, on lands necessary to Rehabilitation Effort construction, operation, and maintenance.

B. In the event it is discovered through an investigation for hazardous substances or other means that any lands, easements, rights-of-way, or disposal areas to be acquired or provided for the Rehabilitation Effort contain any hazardous substances regulated under CERCLA, the Public Sponsor and the Government shall provide prompt notice to each other, and the Public Sponsor shall not proceed with the acquisition of lands, easements, rights-of-way, or disposal areas until mutually agreed.

C. The Government and the Public Sponsor shall determine whether to initiate construction of the Rehabilitation Effort, or, if already in construction, to continue with construction of the Rehabilitation Effort, or to terminate construction of the Rehabilitation Effort for the convenience of the Government in any case where hazardous substances regulated under CERCLA are found to exist on any lands necessary for the Rehabilitation Effort and the authorized project. Should the Government and the Public Sponsor determine to proceed or continue with the construction after considering any liability that may arise under CERCLA, the Public Sponsor shall be responsible, as between the Government and the Public Sponsor, for any and all necessary clean up and response costs, to include the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of the total Rehabilitation Effort costs as defined in this Agreement. In the event the Public Sponsor fails to provide any funds necessary to pay for clean up and response costs or to otherwise discharge the Public Sponsor's responsibilities under this paragraph upon direction by the Government, the Government may either terminate or suspend work on the Rehabilitation Effort or proceed with further work as provided in Article X of this Agreement.

D. The Public Sponsor and Government shall consult with each other to assure that responsible parties bear any necessary clean up and response costs as defined in CERCLA. Any decision made pursuant to paragraph C of this Article shall not relieve any party from any liability that may arise under CERCLA.

E. As between the Government and the Public Sponsor, the Public Sponsor shall be considered the operator of the project (which the Rehabilitation Effort is repairing and restoring) for purposes of CERCLA liability. To the maximum extent practicable, the Public Sponsor shall operate and maintain the project in a manner that will not cause liability to arise under CERCLA.

ARTICLE XII - NOTICES

A. All notices, requests, demands, and other communications required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

DATED this _____ day of _____, 2008

Jay S. Punia
Executive Officer
Central Valley Flood Protection Board

**EXHIBIT "A" Scope of Work
PL 84-99 (2006) Order 2, 3, 4, 5 Sites Repair (Group B)**

Sutter Maintenance yard, East Levee - Sacramento River (2 sites, left bank): Reconstruction of a total of 3000 ft of waterside slope at both sites to pre-flood condition by backfilling toe erosion & wave wash with impervious fill. Slope will be reseeded & mulched. Estimated Project cost for this location is \$1,066,948.

RD 784 - Yuba River (1 site, left bank), Dry Creek (1 site, right bank), & Western Pacific Interceptor Canal (1 site, left bank): Reconstruction of a total of 3600 ft of waterside slope at the three sites to pre-flood condition by backfilling erosion & wave wash with impervious fill. Slope will be reseeded & mulched. Estimated Project cost for this location is \$443,709.

RD 536 - Lindsey Slough (16 sites, right bank): The rehabilitation (total length 8121 ft) consists of extending the landside levee embankment by adding a 10 foot wide berm to the height of the existing levee. The landside berm will be constructed of compacted fill and will be seeded and mulched. The levee road will be extended to the entire width of the crown. Estimated Project cost for this location is \$3,777,449.

RD 17 - San Joaquin River (15 sites, right bank): 15 sites totaling 8,940 ft length of repair. Repair work on water side levee slopes to pre-flood conditions include cleaning the damaged area, backfilling the scarp with fill, and restoring rock protection (placed on 6 in layer of bedding material). Estimated Project cost for this location is \$2,752,000.

RD 2063 - San Joaquin River (1 site, right bank): The repair consists of construction of a 100 foot long, 100 foot wide seepage berm to a thickness of eight feet above the levee toe. The berm will be constructed of drain rock placed on a 6 inch layer of bedding material. Two 48 in diameter Corrugated Metal Pipe (CMP) culverts will be placed in the existing ditch. Estimated Project cost for this location is \$734,489.

RD 765 - Sacramento River, (5 sites, right bank): Repair includes restoring water side slope of the wind/wave wash damaged sites (totaling 1015 ft in length) to pre-flood conditions with compacted fill & reconstructing rock protection on 6 in bedding material. Estimated Project cost for this location is \$522,074.

RD 150 - Sacramento River, (17 sites, right bank): The total length of all the 17 sites is about 7,436ft. The repair includes reconstruction of the levee toe and restoration of the lost rock protection to the height and thickness of the adjacent undamaged areas. The levee slope will be cleaned and grubbed at least 10 feet above the eroded area. The rock protection will be placed on a 6-inch thick layer of bedding. Estimated Project cost for this location is \$ 5,382,210.

RD 2098 - Yolo ByPass/ Shag Slough, (12 sites, right bank): Cache Slough, (8 sites, left bank): Haas Slough, (2 sites, left bank): The total length of repair at all the 22 sites is 7530 ft. The rehabilitation consists of backfilling of the water side levee slope/toe and restoration of lost rock protection. The eroded slopes/toes will be restored to the pre-flood conditions with combinations of compacted impervious soil for some of the sites and quarry run rockfill for the rest of the sites. The quarry run rockfill sites will be aligned with the existing slope of surrounding levee. At sites where the slopes are restored with compacted earthfill, they will be overlain with 24 inch riprap placed on 6 inch thick layer of bedding material. The upper parts of the restored slope of the levee will be hydroseeded upslope of newly placed rocks. Estimated Project cost for this location is \$9,207,295.

Total Estimated Project Cost: \$23,886,174; Total number of sites: 81; Total length of repair: 39,742 ft